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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/059,364	01/31/2002	Matthew B. Hoyt	1005-189	8962
23117	7590	09/08/2006	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			JUSKA, CHERYL ANN	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 09/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/059,364	<b>Applicant(s)</b> HOYT ET AL.	
	<b>Examiner</b> Cheryl Juska	<b>Art Unit</b> 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 20, 21, 23, 25-27 and 29-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20, 21, 23, 25-27, and 29-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendment filed June 15, 2006, has been entered. The specification and claim 20 have been amended as requested. New claims 29-34 have been added. Thus, the pending claims are 20, 21, 23, 25-27, and 29-34.
2. Said amendment is sufficient to withdraw the 112, 2<sup>nd</sup> rejection set forth in section 5 of the last Office Action.

### ***Claim Rejections - 35 USC § 103***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 20, 23, and 25-27 stand rejected under 35 USC 103(a) as being unpatentable over US 4,069,363 issued to Segraves et al. in view of US 5,447,794 issued to Lin as set forth in section 7 of the last Office Action.
5. Claim 21 is rejected under 35 USC 103(a) as being unpatentable over the cited Segraves and Lin patents, as applied to claim 20 above and in further view of US 4,075,378 issued to Anton et al. or US 5,468,555 issued to Lijten as set forth in section 8 of the last Office Action.
6. Claims 20, 21, 23, and 25-27 are rejected under 35 USC 103(a) as being unpatentable over US 4,075,378 issued to Anton et al. in view of the cited Lin patent as set forth in section 9 of the last Office Action.
7. Claims 20, 23, and 25-27 are rejected under 35 USC 103(a) as being obvious over the cited Lin patent in view of US 5,340,886 issued to Hoyt et al. and in further view of the cited Segraves patent as set forth in section 10 of the last Office Action.
8. Claim 21 is rejected under 35 USC 103(a) as being unpatentable over the cited Lin, Hoyt, and Segraves patents, as applied to claim 20 above, and in further view of the cited Anton patent or US 5,468,555 issued to Lijten as set forth in section 11 of the last Office Action.

Applicant has amended independent claim 20 to define the range of amine end group (AEG) concentration to 10-100 meq/kg for the core nylon and to limit the sheath nylon to having an AEG concentration of less than 10 meq/kg. However, as noted in the last Office Action, section 7, 2<sup>nd</sup> paragraph, the claim was previously interpreted as limiting the range of core nylon to having an AEG concentration as is now amended. Additionally, the rejection set forth previously addressed an AEG concentration for the sheath of less than 5 meq/kg. Thus, the amendment to claim 20 does not change the scope of the claim to a scope other than that which has already been examined. Therefore, the rejections stand as previously set forth.

9. Claim 29 is rejected under 35 USC 103(a) as being unpatentable over US 4,069,363 issued to Segraves et al. in view of US 5,447,794 issued to Lin as applied to claim 20 above.

10. Claim 29 is rejected under 35 USC 103(a) as being unpatentable over US 4,075,378 issued to Anton et al. in view of the cited Lin patent as applied to claim 20 above.

11. Claim 29 is rejected under 35 USC 103(a) as being obvious over the cited Lin patent in view of US 5,340,886 issued to Hoyt et al. and in further view of the cited Segraves patent as applied to claim 20 above.

New claim 29 limits the AEG concentration for the core nylon to a range of about 20-50 meq/kg. Note Lin teaches the nylon core has an AEG concentration of about 50 meq/kg. Thus, claim 29 is also rejected over the cited prior art combinations.

12. Claims 30 and 32-34 are rejected under 35 USC 103(a) as being unpatentable over US 4,069,363 issued to Segraves et al. in view of US 5,447,794 issued to Lin.

13. Claim 31 is rejected under 35 USC 103(a) as being unpatentable over the cited Segraves and Lin patents, as applied to claim 30 above and in further view of US 4,075,378 issued to Anton et al. or US 5,468,555 issued to Lijten.

14. Claims 30-34 are rejected under 35 USC 103(a) as being unpatentable over US 4,075,378 issued to Anton et al. in view of the cited Lin patent.

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15. Claims 30 and 32-34 are rejected under 35 USC 103(a) as being obvious over the cited Lin patent in view of US 5,340,886 issued to Hoyt et al. and in further view of the cited Segraves patent.

16. Claim 31 is rejected under 35 USC 103(a) as being unpatentable over the cited Lin, Hoyt, and Segraves patents, as applied to claim 30 above, and in further view of the cited Anton patent or US 5,468,555 issued to Lijten.

New claim 30 contain limitations that are analogous to those of claims 20, 25, and 29. Additionally, claims 31-34 contain limitations that are analogous to those set forth in claims 21, 23, 26, and 27, respectively. As such, new claims 30-34 are rejected for reasons analogous to those presented in the rejections of claims 20, 21, 23, 25-27, and 29.

### ***Response to Arguments***

17. Applicant's arguments filed with the amendment have been fully considered but they are not persuasive. Specifically, applicant has presented no new arguments, but rather has just copied the arguments presented in the Appeal Brief filed December 30, 2004. Since said arguments were clearly addressed in the Examiner's Answer filed March 21, 2005 and the last Office Action, said arguments are not further addressed at this time, with the exception of the following comment.

18. Applicant asserts, "What should not be lightly overlooked when reviewing the patentability of the present invention is that the applicants have discovered a method whereby stain-resistant sheath/core filaments may be provided which are nonetheless capable of being acid dyed." (Amendment, page 8, 4<sup>th</sup> paragraph). To the contrary, said method is not being "lightly overlooked," but the fact remains that the claims are drawn to a final product not a method of making the product nor even a product-by-process invention. As such, applicant is

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arguing feature that are not presently claimed. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Juska whose telephone number is 571-272-1477. The examiner can normally be reached on Monday-Friday 10am-6pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached at 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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21. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CHERYL A. JUSKA  
PRIMARY EXAMINER

cj  
August 30, 2006